

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FAYETTEVILLE DIVISION**

BRET A. BIELEMA

PLAINTIFF

v.

5:20-cv-05104-PKH

THE RAZORBACK FOUNDATION, INC.

DEFENDANT

THE RAZORBACK FOUNDATION, INC.

COUNTER-PLAINTIFF

V.

BRET A. BIELEMA and NEIL CORNRICH

COUNTER-DEFENDANTS

**DEFENDANT'S MOTION FOR LEAVE TO FILE A MOTION FOR LEAVE TO FILE
AMENDED COUNTERCLAIM AND BRIEF IN SUPPORT UNDER SEAL**

Defendant/Counter-Plaintiff, The Razorback Foundation, Inc. (the "Foundation"), by and through its attorneys, Friday, Eldredge & Clark, LLP, for its Motion for Leave to File its Motion for Leave to File Amended Counterclaim and Brief In Support Under Seal, states as follows:

1. The Final Scheduling Order allows the parties to seek leave to amend pleadings on or before February 1, 2021. Doc. No. 40 at 2.
2. Since the time the Foundation filed its Counterclaim, Coach Bielema has obtained a new, high-paying position as head football coach at the University of Illinois, which directly relates to the Foundation's claims. Additionally, during the course of discovery, the Foundation has received documents from the New England Patriots that demonstrate the Patriots' involvement in Bielema and Cornrich's scheme to place Bielema in a low-paying position with the Patriots while he was still receiving payments from the Foundation under the Release Agreement. As such, the Foundation intends to file a Motion for Leave to File an Amended Counterclaim.

3. The Foundation has sought consent from Bielema and Cornrich to amend its Counterclaim. As of the time of this filing, neither Bielema nor Cornrich has stated his position.

4. The Brief in Support of that Motion, the Proposed Amended Counterclaim, and certain exhibits that the Foundation intends to attach to its Motion for Leave to File an Amended Counterclaim, reference or include materials that were produced by the New England Patriots in response to a subpoena *duces tecum*. On January 15, 2021, the Patriots notified counsel for the Foundation that all documents in the Patriots' document production were designated Confidential pursuant to the Court's Protective Order.

5. Although the Foundation does not agree with the blanket designation, the Foundation seeks leave to file these materials under seal.

6. Failing to seal these documents would harm third parties, including the New England Patriots, by releasing information claimed to be sensitive to the public.

7. The Foundation intends to file public, redacted versions of the Brief in Support of the Motion for Leave and the Proposed Amended Counterclaim.

8. The Foundation therefore respectfully requests that it be permitted to file the following documents under seal:

- a. Brief in Support of Motion for Leave;
- b. Exhibits to the Foundation's Motion for Leave to File an Amended Counterclaim;
and
- c. Proposed Amended Counterclaim.

WHEREFORE, the Foundation prays that its Motion for Leave to File its Motion for Leave to File Amended Counterclaim and Brief In Support Under Seal be granted and that the Court grant it any other relief to which it is entitled.

Respectfully submitted,

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By: /s/ Marshall S. Ney
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CERTIFICATE OF SERVICE

I, Marshall S. Ney, do hereby certify that the foregoing is being electronically filed with the Court and that the below listed persons will receive a copy of the foregoing via the Court's electronic notification system (ECF), on or about this 20th day of January, 2021:

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